

EXHIBIT 7

COMPARE MIDWEST AND ENVIROKLEEN® TO THE COMPETITION

	Midwest Industrial Supply, Inc. and EnviroKleen®	Soilworks, LLC and Durasoil
1 HERITAGE	<ul style="list-style-type: none"> ✓ Founded in 1975, Midwest Industrial Supply, Inc. has been the pioneer in chemical dust suppressant and stabilization technology. ✓ Midwest Industrial Supply, Inc.'s manufacturing and administrative offices are located in Canton, Ohio with seven satellite facilities throughout the U.S. 	<ul style="list-style-type: none"> ✓ Soilworks, LLC is a new entrant, formed in 2003
2 INNOVATION	<ul style="list-style-type: none"> ✓ Midwest Industrial Supply, Inc. invented the synthetic organic dust suppressant product category in 2001. ✓ Midwest Industrial Supply, Inc. has a fully-staffed R & D department and state-of-the-art testing laboratory. 	<ul style="list-style-type: none"> ✓ Soilworks, LLC is an imitator of synthetic organic dust suppressant technology.
3 PRODUCT PERFORMANCE	<ul style="list-style-type: none"> ✓ EnviroKleen® has been rated #1 in all third-party testing conducted to date. ✓ EnviroKleen®'s performance has been verified by the US Environmental Protection Agency's Environmental Technology Verification Program (US EPA ETV). 	<ul style="list-style-type: none"> ✓ No current test or performance data*. ✓ No US EPA ETV verification testing*.
4 CUSTOMER SUPPORT	<ul style="list-style-type: none"> ✓ Midwest Industrial Supply, Inc. can provide any type of support a customer would require including: Nationwide Service, 24/7 Service, Customized Dust Control Programs and Recordkeeping Services. ✓ Midwest Industrial Supply, Inc. is staffed with in-house engineering experts that can provide construction design, project management, soils testing and quality control. 	<ul style="list-style-type: none"> ✓ Limited service available*.

*According to Soilworks, LLC current website.

EXHIBIT 8



FOR IMMEDIATE RELEASE
Contact: Julie Mamula • 330.456.3121

Midwest Secures Two U.S. Patents Gains Exclusive Control Over Technology in Soil Stabilization and Dust Control Category

CANTON, OHIO – July 2006 – In 1998 Midwest Industrial Supply, Inc. developed the category designation known as "synthetic organic dust control"¹. In recognition of this, Midwest is proud to announce its receipt of two patents¹, recently awarded by the United States Patent and Trademark Office, which evidence the innovation of the compounds and methods which Midwest defines as "synthetic organic dust control"¹.

What is "synthetic organic dust control"¹ technology?

Synthetic organic soil stabilization and dust suppressant technology consists of formulations of synthetic isoalkanes, select organic binders, and methods for their use.

Historically, attempts have been made to use white oils and isoalkanes as dust suppressants. These efforts proved unsuccessful because of the relatively high cost and short term effectiveness in controlling dust. These materials also failed to meet today's high demands for soil stabilization. Midwest has discovered a way to maximize the effectiveness of synthetic isoalkanes as a dust control agent by using these as carriers of select organic binders. These organic binders provide excellent soil stabilization and enhance dust control. The result is stabilization and dust control at a new level.

Midwest originated and defined the category and now Midwest has secured exclusive rights to the products and methods that define the category. Midwest's patents provide it with the exclusive right to manufacture and sell synthetic organic soil stabilization and dust suppressant technology. Midwest makes this technology available under the registered trademarks EnviroKleen, EK35, Diamond Dr. and Arena Rx.

Midwest's competitors may claim to offer synthetic organic dust control technology, but only Midwest can offer the products and methods that define this technology. Those competitors are either not supplying synthetic organic dust control technology, as recited above, or they are infringing Midwest's patents.

For over 30 years, Midwest Industrial Supply Inc., has improved customers' operational efficiency while achieving environmental integrity and compliance in a variety of industries. This exciting new invention complements Midwest's innovative, industry-leading products and application services.

For more information on EnviroKleen, EK35, Diamond Dr, Arena Rx or other products from Midwest Industrial Supply Inc., please contact Midwest Industrial Supply, P.O. Box 8431, Canton, OH 44711. Toll free: 800-321-0699. Fax: 330-456-3247. E-mail: custserv@midwestind.com. Web: www.midwestind.com.

###

¹ U.S. Patent Nos. 7,074,266 and 7,081,270.

EXHIBIT 9

MATERIAL SAFETY DATA SHEET

SECTION 1 - MATERIAL IDENTIFICATION

PRODUCT NAME DURASOIL®
MANUFACTURER *DURASOIL is a registered trademark of Soilworks, LLC.
Soilworks, LLC.
681 North Monterey Street, Suite 101
Gilbert, Arizona 85233-8318 USA
www.soilworks.com
800-545-5420
TELEPHONE NUMBER www.Soilworks.com
ONLINE INFORMATION 800-545-5420 (National & International)
EMERGENCY TELEPHONE NUMBERS August 2004
REVISION DATE

EMERGENCY OVERVIEW

PHYSICAL FORM Bright clear viscous liquid
COLOR Colorless
ODOR Odorless
HAZARDS This material is NOT HAZARDOUS according to the OSHA Hazard Communication Standard, 29 CFR 1910.1200.
C.A.S. CHEMICAL NAME Product a blend. No number assigned
CHEMICAL NAME Synthetic Organic Dust Control Agent
SYNONYMS Dust Palliative, Dust Retardant, Dust Suppressant, Dust Control Material, Dust Inhibitor
CHEMICAL FAMILY N/A
EMPIRICAL FORMULA Mixture
INTENDED USE Control Dust, Retard Dust, Suppress Dust, Inhibit Dust
REVISION NOTES None

SECTION 2 - INGREDIENTS

Chemical Name	%	CAS Number
1. Complex mixture of severely hydrotreated, branched alkanes and alkylated saturated ring compounds	Trade secret	Non-hazardous
2. Proprietary ingredients	Trade secret	Non-hazardous

SECTION 3 - HAZARD IDENTIFICATION

ROUTES OF EXPOSURE

Skin, inhalation

Mist 8 hour ACGIH TLV: TWA 5mg/m³

This product may cause irritation to the eyes, nose, throat, lungs and skin after prolonged or repeated exposure.

CARCINOGENS UNDER OSHA, ACGIH, NTP, IARC

None of the components present in this material at concentrations equal to or greater than 0.1% are listed by IARC, NTP, OSHA, or ACGIH as a carcinogen.

SECTION 4 - FIRST AID

EYE CONTACT

Flush eyes with flowing water and continue flushing until irritation subsides. If irritation persists, seek medical attention.

SKIN CONTACT

Remove contaminated clothing. Wash affected area with soap and water. If redness or irritation occurs, seek medical attention.

INHALATION

This material has a low vapor pressure and is not expected to present an inhalation exposure at ambient conditions. If vapor or mist is generated when the material is heated or handled, move subject to fresh air. If breathing has stopped or is irregular, administer artificial respiration and supply oxygen if it is available. If subject is unconscious, remove to fresh air and seek immediate medical attention.

INGESTION

Do not induce vomiting due to aspiration hazard. Seek immediate medical attention.



SOILWORKS, LLC
881 N. Monterey St., #101
Gilbert, Arizona 85233
Phone: (800) 545-5420 Fax: (480) 545-5458
www.Soilworks.com Info@Soilworks.com

DURASOIL®
SYNTHETIC ORGANIC
Dust Control Agent

SECTION 5 - FIRE AND EXPLOSION DATA

FLASH POINT	>300° F (>149° C)
TEST METHOD	ASTM D-93 (PMCC)
FLAMMABLE LIMITS IN AIR	No Data Available
AUTOIGNITION TEMPERATURE	No Data Available
EXTINGUISHING MEDIA	

Use dry chemical, foam, or carbon dioxide.

SPECIAL FIRE FIGHTING PROCEDURES

Water may be ineffective but can be used to cool containers exposed to heat or flame.

UNUSUAL FIRE AND EXPLOSION HAZARDS

Dense smoke may be generated while burning. Carbon monoxide, carbon dioxide, and other oxides may be generated as products of combustion.

SECTION 6 - ACCIDENTAL RELEASE MEASURES

CONTAINMENT TECHNIQUES

Remove all sources of ignition. Stop the leak, if possible.

CLEAN-UP PROCEDURES

Contain spill immediately. Do not allow spill to enter sewers or open bodies of water. Absorb with inert absorbent materials. Large spills may be picked up using vacuum pumps, shovels, buckets, or other means and place in drums or other suitable containers.

SECTION 7 - HANDLING AND STORAGE

STORAGE

Do not transfer to unmarked containers. Store in a cool, well ventilated area in closed containers away from heat, sparks, open flame or oxidizing materials.

HANDLING

Avoid breathing vapors or mist. Avoid contact with eyes. Avoid prolonged or repeated contact with skin. Wash thoroughly after handling. Wash clothing prior to reuse. May be slippery when spilled.

SECTION 8 - PERSONAL PROTECTION / EXPOSURE CONTROLS

EXPOSURE LIMITS AND GUIDELINES

This product does not contain any components with OSHA or ACGIH exposure limits.

If mist is generated, exposure limits apply.

OSHA PEL: TWA 5 mg/m³

ACGIH TLV: TWA 5 mg/m³; STEL 10 mg/m³

EYE PROTECTION

Eye protection is not required under conditions of normal use. If material is handled such that it could be splashed into eyes, wear splash-proof safety goggles.

SKIN PROTECTION

No skin protection is required for single, short duration exposures. For prolonged or repeated exposures, use impervious synthetic rubber (boots, gloves, aprons, etc.) over parts of the body subject to exposure (Nitrile recommended). Launder soiled cloths.

RESPIRATORY PROTECTION

Not required under normal conditions in a well-ventilated workplace. An organic vapor respirator National Institute for Occupational Safety and Health (NIOSH) approved for organic vapors is recommended where necessary to maintain exposure below the exposure limits.

ENGINEERING CONTROLS

If vapor or mist is generated when the material is heated or handled, adequate ventilation in accordance with good engineering practice must be provided to maintain concentrations below the specified exposure or flammable limits.

WORK AND HYGIENIC PRACTICES

Always wash hands and face with soap and water before eating, drinking, or smoking.

SECTION 9 - TYPICAL PHYSICAL AND CHEMICAL PROPERTIES

PHYSICAL FORM	Bright clear viscous liquid
COLOR	None, Colorless
ODOR	None, Odorless
pH	N/A, Not an aqueous solution
VAPOR PRESSURE	<1 (mm Hg)
VAPOR DENSITY (Air = 1)	>1
BOILING POINT	>500° F (>260° C)
MELTING POINT	No Data Available
SOLUBILITY IN WATER	Insoluble in water
SPECIFIC GRAVITY (Water = 1)	0.845 - 0.865
POUR POINT	-5° F (-15° C)



SOILWORKS, LLC
681 N. Monterey St., #101
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www.Soilworks.com Info@Soilworks.com

DURASOIL®
SYNTHETIC ORGANIC
Dust Control Agent

SECTION 10 - STABILITY AND REACTIVITY

CHEMICAL STABILITY

Stable.

CONDITIONS TO AVOID

Heat, sparks, flame.

INCOMPATIBILITY (Materials to Avoid)

May react with strong oxidizing agents.

HAZARDOUS DECOMPOSITION PRODUCTS

Carbon monoxide, carbon dioxide, and other oxides may be generated as products of combustion.

HAZARDOUS POLYMERIZATION

Will not occur

SECTION 11 - TOXICOLOGICAL PROPERTIES

ACUTE ORAL TOXICITY (LD50, RAT)

No Data

ACUTE DERMAL TOXICITY (LD50, RABBIT)

No Data

ACUTE INHALATION TOXICITY (LC50, RAT)

No Data

OTHER ACUTE EFFECTS

No Data

IRRITATION EFFECTS DATA

No Data

CHRONIC/SUBCHRONIC DATA

No Data

SECTION 12 - ECOLOGICAL INFORMATION

No Data Available

SECTION 13 - DISPOSAL CONSIDERATIONS

REGULATORY INFORMATION

All disposals must comply with federal, state and local regulations. The material, if spilled or discarded, may be a regulated waste. Refer to state and local regulations. Department of Transportation (DOT) regulations may apply for transporting this material when spilled.

WASTE DISPOSAL METHODS

Waste materials may be landfilled or incinerated at an approved facility. Materials should be recycled if possible.

SECTION 14 - TRANSPORT INFORMATION

U.S. DEPARTMENT OF TRANSPORTATION (DOT)

DOT NON-BULK SHIPPING NAME Not Regulated

DOT BULK SHIPPING NAME Not Regulated

INTERNATIONAL INFORMATION

VESSEL (IMO) SHIPPING DATA Not Regulated

AIR (ICAO/IATA) SHIPPING DATA Not Regulated

SECTION 15 - REGULATORY INFORMATION

US FEDERAL REGULATIONS

TOXIC SUBSTANCE CONTROL ACT (TSCA) 12(b) COMPONENT(S)

None

OSHA Hazard Communication Standard (29CFR1910.1200) hazard class(es)

None

EPA SARA Title III Section 312 (40CFR370) hazard class

None

EPA SARA Title III Section 313 (40CFR372) toxic chemicals above "de minimis" level are

None

CANADIAN REGULATIONS

This product is not a controlled product under the Canadian Workplace Hazardous Materials Information System (WHMIS).


SECTION 16 - OTHER INFORMATION

The data in this Material Safety Data Sheet relates only to the specific material designated herein and does not relate to use in combination with any other material or in any process.

EXHIBIT 10
(FILED UNDER SEAL)

EXHIBIT 11

[Gmail](#) [Calendar](#) [Documents](#) [Photos](#) [Reader](#) [Web](#) more ▼

[Blog](#) | [Help](#) | [Sign In](#) | [Sign up for Picasa Web Albums](#)
 Picasa™ Web Albums

[View Order](#)
[Soilworks, LLC's Public Gallery](#) » Unpaved Airport Runway treated with D...

[Community Photos](#)



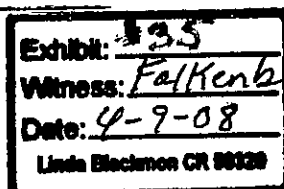
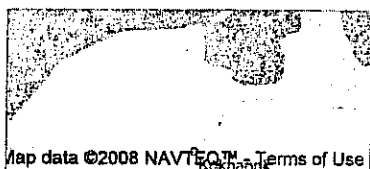
Unpaved Airport Runway treated with Durasoil Synthetic Organic Dust Control Agent

Kokhanok, AK
Photos: 21 - 2 MB
Dec 7, 2006
Public

Soilworks® provides engineered solutions to the broad needs of the dust control and soil stabilization industry. Whether your market is commercial, industrial, military or residential, we have the innovative tools, unmatched technical support, and environmentally-friendly technologies to fulfill your specific requirements. Soilworks® performance-driven portfolio of industry-leading products include the Patented U.S. Department of Defense Surtac®, Soiltac®, Powdered Soiltac®, Gorilla-Snot® and Durasoil®. Our International sales network, global distribution centers, and integrated customer service provide an ideal platform to satisfy your needs. Get to know us better at www.soilworks.com or call 1-800-545-5420.

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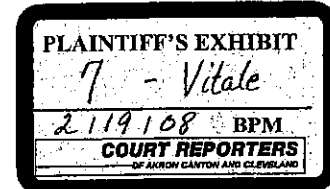
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EXHIBIT 12

1 BROUSE MCDOWELL
2 JOHN M. SKERIOTIS, 0069263 (OH)
3 JILL A. BAUTISTA, 0075560 (OH)
4 388 S. Main Street, Suite 500
5 Akron, Ohio 44311-4407
6 Telephone: 330-535-5711
7 Facsimile: 330-253-8601
8 Email: jskeriotis@brouse.com
9 Email: jbautista@brouse.com
10 *Admitted Pro Hac Vice*

11 *Attorneys for Defendant*
12 *Midwest Industrial Supply, Inc.*



13 UNITED STATES DISTRICT COURT
14 IN AND FOR THE DISTRICT OF ARIZONA

15 SOILWORKS, LLC, an Arizona limited
16 liability company,

17 Plaintiff / Counterdefendant /
18 Counterclaimant,

19 v.

20 MIDWEST INDUSTRIAL SUPPLY, INC.,
21 an Ohio corporation authorized to do
22 business in Arizona,

23 Defendant / Counterclaimant /
24 Counterdefendant.

NO.: 2:06-CV-2141-DGC

MIDWEST INDUSTRIAL SUPPLY,
INC.'S RESPONSES TO SOILWORKS,
LLC'S SECOND SET OF
INTERROGATORIES AND SECOND
REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS
ENTITLED COMBINED NON-
UNIFORM INTERROGATORIES
AND REQUEST FOR PRODUCTION
OF DOCUMENTS AND THINGS TO
MIDWEST INDUSTRIAL SUPPLY,
INC.

25 PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 34,
26 Defendant Midwest Industrial Supply, Inc. ("Defendant" or "Midwest") hereby responds to
27 Plaintiff Soilworks, LLC.'s ("Plaintiff" or "Soilworks"), Second Set of Interrogatories and
28

1 Second Request for Production of Documents and Things Entitled Combined Non-Uniform
2 Interrogatories And Request For Production Of Documents And Things.
3

4 **GENERAL OBJECTIONS**

5 1. The General Objections contained within Defendant's Answers to Plaintiff's
6 First Set of Interrogatories to Defendant, served previously, are incorporated herein by
7 reference. To the extent Plaintiff sets forth the identical Instructions and/or Definitions
8 herein as set forth by Plaintiff in its First Set of Interrogatories, such objections by Defendant
9 to those identical Instructions and/or Definitions are incorporated herein by reference as
10 well.

11 2. Defendant objects to Plaintiff's interrogatories and document requests as not
12 being consecutively numbered and labeled as "non-uniform."

13 3. Defendant objects to Plaintiff's request, as set forth herein and its instruction,
14 to the extent it exceeds the requirements of Federal Rules of Civil Procedure 26, 33 and 34.
15

16 **RESPONSE TO INTERROGATORIES**

17
18 **Interrogatory No. 1 (15)**

19 Does any Soilworks product infringe US Patent No. 7081270?
20

21 **ANSWER:**

22 Defendant incorporates herein the General Objections. Defendant objects to this
23 Interrogatory to the extent that it seeks confidential and proprietary information. Defendant
24 further objects that the Interrogatory seeks information protected by the attorney-client
25 privilege and/or the work product doctrine. Defendant will produce confidential information
26 only subject to the Agreed Protective Order in this proceeding.

27 Subject to and without waiving the foregoing objections, Defendant responds:
28

1 From the available public information, yes.

2
3 **Interrogatory No. 2 (16)**

4 If your answer to the preceding interrogatory is in the affirmative, please state:

5 (a) each and every Soilworks product which you claim infringes;

6 (b) the specific reasons why you believe any infringement exists including the scope
7 of any claimed infringement, and the manner in which any of such products
8 infringe the patent.
9

10 **ANSWER:**

11 Defendant incorporates herein the General Objections. Defendant objects to this
12 Interrogatory to the extent that it seeks confidential and proprietary information. Defendant
13 further objects that the Interrogatory seeks information protected by the attorney-client
14 privilege and/or the work product doctrine. Defendant will produce confidential information
15 only subject to the Agreed Protective Order in this proceeding.
16

17 Subject to and without waiving the foregoing objections, Defendant responds:

18 (a) At least Plaintiff's Durasoil product.

19 (b) Based upon the publicly available information of Plaintiff's Durasoil product,
20 excluding any alleged "proprietary ingredients", the publicly available information
21 is included within the elements of at least one independent claim.
22
23
24

25 **Interrogatory No. 3 (17)**

26 Does any Soilworks product infringe US Patent No. 7074266?

27 **ANSWER:**
28

1 Defendant incorporates herein the General Objections. Defendant objects to this
2 Interrogatory to the extent that it seeks confidential and proprietary information. Defendant
3 further objects that the Interrogatory seeks information protected by the attorney-client
4 privilege and/or the work product doctrine. Defendant will produce confidential information
5 only subject to the Agreed Protective Order in this proceeding.
6

7 Subject to and without waiving the foregoing objections, Defendant responds:

8 From the available public information, yes.
9

10
11 **Interrogatory No. 4 (18)**

12 If your answer to the preceding interrogatory is in the affirmative, please state:

13 (a) each and every Soilworks product which you claim infringes;

14 (b) the specific reasons why you believe any infringement exists including the scope
15 of any claimed infringement, and the manner in which any of such products
16 infringe the patent.
17

18 **ANSWER:**

19 Defendant incorporates herein the General Objections. Defendant objects to this
20 Interrogatory to the extent that it seeks confidential and proprietary information. Defendant
21 further objects that the Interrogatory seeks information protected by the attorney-client
22 privilege and/or the work product doctrine. Defendant will produce confidential information
23 only subject to the Agreed Protective Order in this proceeding.
24

25 Subject to and without waiving the foregoing objections, Defendant responds:

26 (a) at least Plaintiff's Durasoil product.
27
28

1 (b) based upon the publicly available information of Plaintiff's Durasoil product,
2 excluding any alleged "proprietary ingredients", the publicly available information
3 is included within the elements of at least one independent claim.
4

5
6 **Interrogatory No. 5 (19)**

7 Please state each and every fact upon which you rely in support of your allegation in
8 paragraph 13 of your counterclaims that Soilworks has used Midwest's marks in commerce.
9

10 **ANSWER:**

11 Plaintiff's advertising including, but not limited to, its brochures, website and
12 marketing materials.
13

14
15 **Interrogatory No. 6 (20)**

16 Please state each and every fact upon which you rely in support of your allegation in
17 paragraph 14 of your counterclaims that Soilworks has made false or misleading statements
18 of fact in its commercial advertisements and promotions.
19

20 **ANSWER:**

21 Defendant incorporates herein the General Objections. Defendant objects to
22 this Interrogatory to the extent that it seeks confidential and proprietary information.
23 Defendant further objects that the Interrogatory seeks information protected by the attorney-
24 client privilege and/or the work product doctrine. Defendant will produce confidential
25 information only subject to the Agreed Protective Order in this proceeding.
26
27
28

1 Subject to and without waiving the foregoing objections, Defendant responds Plaintiff's
2 advertising including, but not limited to, its brochures, website and marketing materials.

3
4 **Interrogatory No. 7 (21)**

5 Please state each and every fact upon which you rely in support of your allegation in
6 paragraph 18 of your counterclaims that Soilworks has used and continued to use one or
7 more of Midwest's marks in commerce without Midwest's authorization. Please state which
8 of Midwest's marks are alleged to be used by Soilworks and how it is alleged that Soilworks
9 is using any such marks.

10
11 **ANSWER:**

12 Defendant incorporates herein the General Objections. Defendant objects to this
13 Interrogatory to the extent that it seeks confidential and proprietary information. Defendant
14 further objects that the Interrogatory seeks information protected by the attorney-client
15 privilege and/or the work product doctrine. Defendant will produce confidential information
16 only subject to the Agreed Protective Order in this proceeding.

17
18 Subject to and without waiving the foregoing objections, Defendant responds Ultra Pure,
19 Synthetic Organic Dust Control, and Oil Sheen Free.

20
21
22 **Interrogatory No. 8 (22)**

23 Please state each and every fact upon which you rely in support of your allegation in
24 paragraph 23 of your counterclaims that "Soilworks manufactures no product whatsoever."

25
26 **ANSWER:**

1 Defendant incorporates herein the General Objections. Defendant objects to this
2 Interrogatory to the extent that it seeks confidential and proprietary information. Defendant
3 further objects that the Interrogatory seeks information protected by the attorney-client
4 privilege and/or the work product doctrine. Defendant will produce confidential information
5 only subject to the Agreed Protective Order in this proceeding.
6

7 Subject to and without waiving the foregoing objections, Defendant responds Plaintiff's
8 location and knowledge of Plaintiff by Defendant's representatives.
9

10
11 **Interrogatory No. 9 (23)**

12 Please state each and every fact upon which you rely in support of your allegation in
13 paragraph 24 of your counterclaims that "Soilworks uses words and/or phrases, marketing,
14 advertising, etc., taken directly from Midwest,...".
15

16 **ANSWER:**

17 Defendant incorporates herein the General Objections. Defendant objects to this
18 Interrogatory to the extent that it seeks confidential and proprietary information. Defendant
19 further objects that the Interrogatory seeks information protected by the attorney-client
20 privilege and/or the work product doctrine. Defendant will produce confidential information
21 only subject to the Agreed Protective Order in this proceeding.
22

23 Subject to and without waiving the foregoing objections, Defendant responds
24 Plaintiff's marketing information and website.
25

26
27 **Interrogatory No. 10 (24)**
28

1 Please state each and every fact upon which you rely in support of your allegation in
2 paragraph 28 of your counterclaims that Soilworks has made false or misleading statements
3 of fact in its commercial advertisements and promotions.
4

5 **ANSWER:**

6 Defendant incorporates herein the General Objections. Defendant objects to this
7 Interrogatory to the extent that it seeks confidential and proprietary information. Defendant
8 further objects that the Interrogatory seeks information protected by the attorney-client
9 privilege and/or the work product doctrine. Defendant will produce confidential information
10 only subject to the Agreed Protective Order in this proceeding.
11

12 Subject to and without waiving the foregoing objections, Defendant responds
13 pursuant to Federal Rule of Civil Procedure 33(d) that it will produce non-privileged
14 documents in response to this Interrogatory.
15
16

17 **REQUESTS FOR PRODUCTION**

18 **REQUEST FOR PRODUCTION NO. 1 (31)**

19 For each and every response to the non-uniform interrogatories set forth above, produce
20 any and all documents and sources of information in support thereof.
21

22 **RESPONSE:**

23 Defendant incorporates herein the General Objections. Defendant objects to this
24 request to the extent that it seeks confidential and proprietary information. Defendant further
25 objects that the Interrogatory seeks information protected by the attorney-client privilege
26
27
28

1 and/or the work product doctrine. Defendant will produce confidential information only
2 subject to the Agreed Protective Order in this proceeding.

3
4 Subject to and without waiving any of the foregoing or any General Objection,
5 Defendant will make available for inspection and copying any and all documents not subject
6 to the attorney-client privilege or attorney work product doctrine in his possession pursuant
7 only to the Agreed Protective Order entered in this case.
8
9

10
11 Dated this 31st day of December, 2007.

12 **BROUSE MCDOWELL LPA**

13 By /s/ John M. Skeriotis

14 JOHN M. SKERIOTIS, 0069263 (OH)

15 JILL A. BAUTISTA, 0075560 (OH)

16 388 S. Main Street, Suite 500

17 Akron, Ohio 44311-4407

18 Telephone: 330-535-5711

19 Facsimile: 330-253-8601

20 Email: jskeriotis@brouse.com

21 Email: jbautista@brouse.com

22 *Attorneys for Defendant*

23 *Midwest Industrial Supply, Inc.*
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Attorneys for Plaintiff Soilworks, LLC, an Arizona limited liability company

10

Exhibit 13 (filed under seal)

EXHIBIT 14

Edward W. Funk, Ph.D.

Chemical Engineering Consultant / Expert Witness

May 7, 2008

Re: Soilworks v. Midwest Industrial Supply

I have been retained by Kutak-Rock LLP to evaluate if the Durasoil product infringes any of the Midwest products covered in US 7,074,266 and US 7,081,270.

Enclosed is my CV and list of technical publications, authored patents, and major presentations. I have particular experience with soil-type material from my research at Exxon-Mobil on separating valuable organics from tar sands, which are 90% clay and soil-type material. Over the last 5 years, I have given 6 depositions.

My conclusions are based on an understanding of the composition of Durasoil and an analysis of the Midwest patents US 7,074,266 and US 7,081,270.

First, the components of Durasoil. It contains white mineral oil which is generally defined as a very pure paraffinic hydrocarbon. The second component is light petroleum which has been hydro-treated to assure that it is paraffinic. The third component is a middle distillate from the fractionation of oil which has been hydro-treated. It also contains some esters; these are modified carboxylic acids.

Durasoil does not contain key components claimed in the above named Midwest patents. The Midwest product contains organic acids (carboxylic and fatty acids). This would give the product an acidic property where the paraffinic components in Durasoil give it a non-acidic property.

The Midwest product contains and emulsifier, which in industrial use are typically long-chained alcohols or fatty acids

Durasoil does not include an iso-alkane (a paraffinic component that has some branching rather than a straight chain material. Iso-alkanes do not naturally occur in petroleum but are manufactured in a specialized process (the most common synthetic iso-alkane is iso-octane used in gasoline to increase performance).

The Midwest product includes a polyolefin (a low molecular weight polymer). This is used as a binder for the other organic components. Durasoil does not use polymeric materials or a binder.

From the above analysis, it is my conclusion that Durasoil is distinctly different from the materials claimed in the Midwest patents.

A handwritten signature in black ink, appearing to read 'E W Funk', is positioned above the typed name.

Edward W Funk, Ph D
President
EWF Consulting, Inc.

Appendix 1- EWF CV and publications

CURRICULUM VITAE -EDWARD W.FUNK, Ph. D.

676 DeTamble Avenue
Highland Park, IL 60035
(847) 433-5659
ewf@ewfconsulting.net
Website: www.ewfconsulting.net

PROFESSIONAL SUMMARY

Experienced R&D director at Exxon and Honeywell and presently an expert witness along being a Professor of Chemical Engineering at University of Illinois.

EDUCATION

Ph.D., Chemical Engineering, University of California, Berkeley, 1970 B.S., Engineering Science, Yale, 1967

PRESENT PROFESSIONAL

1. Consultant and expert witness 1992-present. EWF Consulting, Inc. Technical consultant to medium-sized chemical companies and national laboratories. Expert witness on patent infringement and process/product liability cases with law firms.
2. Professor of Chemical Engineering, University of Illinois 1992-present Teaching of courses in process and product design. Technical writing and oral communication.

PREVIOUS EXPERIENCE

Allied-Signal/UOP (now Honeywell), Des Plaines, IL, 1982-1992
Manager of Chemical Process/Product Technology

- Responsible for the commercial development of new products in the areas of petrochemicals, polymers, membranes and films, environmental processes, and chemical processing, and novel process systems.
- This work led to new membranes, surface-modified films, ozone-friendly fluorocarbons, extraction processes for treating contaminated soils, conducting polymer resins, carbon molecular sieves, etc.
- Managed the advanced technology for UOP division of Honeywell, the process technology affiliate of Honeywell. This included petroleum processes and process technology in the food and related industries.

- Led the design effort that identified new commercial applications for oxygen-enrichment membranes and ultrafiltration processes for food processing.
- Lead technology manager in the Dow/Honeywell patent infringement suit, which resulted in a \$30 million award to Honeywell.
- Project Manager for a \$5 million Department of Energy contract on the development of energy saving membrane processes. The yield from this contract included the first commercial processes for hydrocarbon separations, and a gas-membrane process for removal of carbon dioxide from natural gas.
- Obtained for Honeywell R&D contracts from NASA and Los Alamos and established joint R&D projects with Kraft and Procter & Gamble.

Corporate Research, Exxon, Linden, NJ, 1973-1982

Senior Research Engineer.

- Established a new program on the extraction of oil from Canadian tar sands and obtained the key patents. Directed the laboratory studies, developed unique software for process analysis, and built a small-scale demonstration units.
- Developed new test methods for the characterization of asphaltenes, lubricating oils, and synthetic fuels.
- Served as the principal engineer in the investigation of potential uses of supercritical fluid technology within Exxon's business units.
- Was lead engineer of the engineering/chemistry team that commercialized Exxon's FLEXSORB process for the use of aqueous tertiary amines for removal of acid gases from natural gas.

Ford Foundation, Chile 1971-1973

Fellow

Established new R&D programs focused on the food and mineral industries within government labs and universities.

PROFESSIONAL ACTIVITIES

Author of 40 technical papers and 35 presentations at technical meetings, national laboratories and industrial research centers. Author of 6 US patents.

PUBLICATIONS / PRESENTATIONS / PATENTS

1. Funk, E.W., and Prausnitz, J.M., "Thermodynamic Properties of Liquid Mixtures: Aromatic-Saturated Hydrocarbon Systems," Industrial and Engineering Chemistry, 9, 8 (1970)
2. Thermodynamic Properties of Aromatic-Saturated Hydrocarbon Mixtures, API Division of Refining, Houston, Texas, May, 1970
3. Funk, E.W., and Prausnitz, J.M., "Vapor-Liquid Equilibria for Propane-Propylene," AIChE Journal, 17, 254 (1971)
4. Preston, G.T., Funk, E.W., and Prausnitz, J.M., "Solubilities of Hydrocarbons and Carbon Dioxide in Liquid Methane and Liquid Argon," Journal of Physical Chemistry, 75, 2345 (1971)
5. Funk, E.W., and Prausnitz, J.M., "Estimation of Binary Parameters (Henry's Constant and van Laar Parameter)," IEC Process Design and Development, 10, 405 (1971)
6. Funk, E.W., and Prausnitz, J.M., "Entropies of Vaporization for Fluorocarbons and Hydrocarbons from the Hildebrand Rules," Journal of Physical Chemistry, 75, 2530 (1971)
7. Preston, G.T., Funk, E.W., and Prausnitz, J.M., "Effect of Temperature on Henry's Constant for Simple Mixtures," Physics and Chemistry of Liquids, 2, 193 (1971)
8. Funk, E.W., Chai, F.C., and Prausnitz, J.M., "Thermodynamic Properties of Liquid Mixtures Containing Aromatic and Saturated Hydrocarbons," Journal of Chemical and Engineering Data, 17, 24 (1972)
9. Equilibrio de Fases en Sistemas de Petroleo, Congreso de Quimicos, Santiago, Chile, January, 1972
10. Funk, E.W., "Activity Coefficients at High Concentrations in the Hydrochloric Acid-Sodium Chloride-Water System," IEC Process Design and Development, 13, 352 (1974).
11. Vega, R., and Funk, E.W., "Solid-Liquid Equilibria in Concentrated Aqueous Salt Solutions - Systems with a Common Ion," Desalination, 15, (1974)
12. Irani, C., and Funk, E.W., "Supercritical Separations Using Gases," Chapter 3, Volume 4, Recent Developments in Separation Science, N.N. Li, Editor, 1976
13. Extraction of Athabasca Tar Sands, Laboratory Seminar, Imperial Oil., Sarnia, Canada, June, 1976
14. Heavy Hydrocarbon Processing: An Overview, Departmental Seminar, Chemical Engineering, University of California, Berkeley, California, 1977
15. Solvent Extraction of Tar Sands: The Process and Economics, Syncrude Canada Limited, Edmonton, Canada, November, 1977

16. Funk, E.W., and Gomez, E., "Determination of Vanadium in Athabasca Bitumen and Other Heavy Hydrocarbons by Visible Spectroscopy," Analytical Chemistry, 49, 972 (1977)
17. Funk, E.W., "Study of Heavy Hydrocarbons by Inverse-Phase Chromatography," I&EC Product Research and Development, 16, 115 (1977)
18. Funk, E.W., Irani, C.A., Espino, R.L., "Tar Sands Extraction Process," U.S. Patent 4, 036, 732 (July, 1977)
19. Funk, E.W., "Behavior of Tar Sand Bitumen with Paraffinic Solvents and its application to Separations for Athabasca Tar Sands," American Chemical Society, Division of Fuel, 23, 81 (1978)
20. Funk, E.W., "Athabasca Bitumen recovery Process," Oilweek Canada, October 23, 44 (1978)
21. Interfacial Effects in Separations for Tar Sands, Departmental Seminar, Chemical Engineering, University of Minnesota, July, 1978
22. Behavior of Athabasca Tar Sand Bitumen, American Chemical Society, Division of Fuel, Miami Beach, September, 1978
23. Thermodynamics of Aqueous Salt Systems, NSF Symposium on Thermodynamics Applied to Industrial Needs, Washington, D.C., October, 1979
24. Processing and Recovery of Heavy Hydrocarbons, Departmental seminar, McGill University, Montreal, Canada, November, 1979
25. Funk, E.W., "Behavior of Tar Sand Bitumen with Paraffinic Solvents," Canadian Journal of Chemical Engineering, 57, 333 (1979)
26. Pirkle, J.C., Funk, E.W., and May, W.G., "Computer Design of Multistage Sedimentation Operation for Separation of Asphaltenes, Sand, and Bitumen in Tar Sands," Proceedings of the 1979 Summer Computer Simulation Conference, Toronto, Canada, 213 (1979)
27. Funk, E.W., "Thermodynamics of Concentrated Salt Solutions: A Review of Theory and Applications," Chapter 37, 717-739, ACS Symposium Series 133, Washington, D. C., 1980
28. Electrokinetics and Other Similar Effects, The Filtration Society, King of Prussia, Pa., March, 1980
29. Selective Absorption of Hydrogen Sulfide and Carbon Dioxide in Aqueous Solutions of Methyldiethanolamine, AIChE Meeting, Houston, Texas, April, 1981
30. Phase Equilibria in Mixtures of Athabasca Bitumen with Alcohol and Paraffin Solvents, AIChE Meeting, Houston, Texas, April, 1981
31. Phase Equilibria of Heavy Hydrocarbon Systems, Departmental Seminar, Chemical Engineering, Yale University, February, 1982
32. Li, N.N., and Funk, E.W., "Separations Based Upon Reversible Complexation," Proceedings of the Joint Meeting of Chemical Engineers of AIChE and CIESC, Vol. 1, 496 (1982)

33. Funk, E.W., May, W.G., Pirkle, J.C., "Solvent Extraction Process for Tar Sands," U.S. Patent 4, 347, 118 (August, 1982)
34. Membrane Separation Processes, U.S. Department of Energy, Washington, D.C., September, 1982
35. Phase Equilibria of Heavy Hydrocarbon Systems, Departmental Seminar, Chemical Engineering, Illinois Institute of Technology, May, 1983
36. Membrane Separation Processes for Acid Gases, AIChE Summer Meeting, Denver, Colorado, August, 1983
37. Polymeric Membranes for Petrochemical Separations, Departmental Seminar, Chemical Engineering, University of Illinois at Chicago, October, 1983
38. Membrane Separations for Liquid Systems, Membrane Symposium, U.S. Department of Energy, University of Texas, Austin, Texas, October, 1983
39. Membrane Separations with Polymeric films, ACS Meeting, Rock River Selection, Beloit College, November, 1983
40. Separations for Closed-Loop Space Stations, Marshall Spacecraft Center, Huntsville, Alabama, September, 1984
41. Membrane Separations for Hydrocarbon Systems, U.S. Department of Energy Symposium, Clemson University, October, 1984
42. Membrane Systems for Spacecraft Living, NASA Ames Research Laboratory, San Jose, California, October, 1984
43. An Industrial Perspective on Teaching Separation Science, AIChE National Meeting, San Francisco, November, 1984
44. Funk, E.W., May, W.G., and Pirkle, J.C., "Processing Approach for the Solvent Extraction of Athabasca Tar Sands," AIChE Energy Progress Quarterly, 4, 12 (1984)
45. Kulkarni, S.S., Funk, E.W., Li, N.N., Riley, R.L., "Membrane Separation Processes for Acid Gases," AIChE Symposium Series, No. 229, Vol. 79, 172 (1984)
46. Separation of Heavy Oils Using Supercritical Fluids, ACS National Meeting, Chicago, September, 1985
47. Membrane Separations in This World and Beyond, Departmental Seminar, Chemical Engineering, Michigan State University, October, 1985
48. Membrane Technology for Acid Gas Separation, DOE Membrane Symposium, Knoxville, Tennessee, October, 1985
49. Novel Separations with Polymeric Membranes, Departmental Seminar, Chemical Engineering, Northwestern University, Evanston, Illinois, March, 1986
50. The Effect of Impurities on Membrane Performance, AIChE Meeting, New Orleans, April, 1986

51. Application of Membrane Technology in the Paper and Pulp Industry, American Chemical Society, New York, April, 1986
52. Advanced Membranes for Spacelab Water Management, American Chemical Society, New York, April, 1986
53. Funk, E.W., Chang, Y.A., Kulkarni, S.S., "Membrane Separation of Hydrocarbons," U.S. Patent 4, 595, 507 (June, 1986)
54. Funk, E.W., Kulkarni, S.S., Chang, Y.A., "Membrane Separation Process," U.S. Patent 4, 671, 126 (October, 1986)
55. Funk, W.S., and May, W.G., "Thermodynamic Analysis of Separation Processes for Athabasca Tar Sands," Energy Sources, 8, 177 (1986)
56. Kulkarni, S.S., Funk, E.W., and Li, N.N., "Hydrocarbon Separations with Polymeric Membranes," AIChE Symposium Series, No. 250, Vol. 82, 78, (1986)
57. Li, N.N., Funk, E.W., Kulkarni, S.S., "An Industrial Perspective on Teaching Separation Science," AIChE Symposium Series, No. 250, 202 (1986)
58. Funk, E.W., Kulkarni, S.S., Swamikannu, A.X., "Effect of Impurities on Cellulose Acetate Membrane Performance," AIChE Symposium Series, No. 250, 27 (1986)
59. Savage, D.W., Funk, E.W., "Selective Absorption of H₂S and CO₂ Into Aqueous Solutions of Methyl-diethanolamine," Ind. Eng. Chem. Fundam., 25, 326 (1986)
60. Membrane Technology for Hydrocarbon Separations, North American Membrane Society Meeting, Cincinnati, June, 1987
61. Use of Statistics For Membrane Optimization, AIChE National Meeting, New York, N.Y., November, 1987
62. Funk, E.W., Kulprathipanja, "Separation of Monosaccharides with Mixed Matrix Membranes," U.S. Patent 4, 735, 193 (April, 1988)
63. Funk, E.W., and S.S. Kulkarni, "Multicomponent Membranes," U.S. Patent 4, 737, 165 (April, 1988)
64. Funk, E.W., and Kulprathipanja, S., "Preparation of Gas Selective Membranes," U.S. Patent 4,737,104 (June, 1988)
65. Funk, E.W., Kulkarni, S.S., Gatsis, J., "Membrane Separation of Hydrocarbons Using Cycloparaffinic Solvents," U.S. Patent 4, 750, 990 (June, 1988)
66. Acid Gas Removal. Sixth Annual Membrane Technology Planning Conference, BCC Communications, Cambridge, Mass. November, 1988.
67. Funk, E.W., and Li, N.N., "Novel Dynamic Membranes-Formation and Process Applications," Separation Technology, 155, 1989
68. Funk, E.W., Li, N.N., "Purification of Natural Gas by Membranes," Gas Separation Technology, Vasant, E.F. and Dewolfs, R., Editors, Elsevier, Amsterdam, 1990
69. Swamikannu, A.X., Funk, E.W., Li, N.N., "Recovery of Space Station Wash Water

by Membrane Technology," International Congress on Membranes and Membrane Processes, Chicago, August, 1990.

70. Sedath, R.H., Li, N.N., Funk, E.W., "Reduction of Fouling in Ultrafiltration Membranes via Surface Fluorination," International Congress on Membranes and Membrane Processes, Chicago, August, 1990

71. Kulprathipanja, S., Funk, E.W., Li, N.N., "Mixed Matrix Membranes," International Congress on Membranes and Membrane Processes, Chicago, August, 1990

72. Membrane Technology Applications in the Chemical Process Industries, Short Course, International Congress on Membranes and Membrane Processes, Chicago, August, 1990

73. Membrane Separations in the Petrochemical Industry, 8th Annual Membrane Technology Planning Conference; BCC Communications, Newton, MA., October, 1990

74. New Membrane Processes for Oil Upgrading, Chevron Research Membrane Conference, Richmond, CA., November, 1990

75. New Membrane Processes in an Environment of Change, Departmental Seminar, Chemical Engineering, Northwestern University, April, 1991

76. Organic Separations with Membranes, First Hanford Separation Symposium, Richland, Washington, July, 1991

77. New Applications of Membrane Technology for the Chemical Industry, Plenary Lecture, Canadian Chemical Engineering Society, Vancouver, October, 1991

78. Manufacturing Process for Cellulose Acetate Membranes and Industrial Uses, 7th Symposium on Separation Science and Technology, Knoxville, Tennessee, October, 1991

79. Mixed Matrix Membranes, AIChE National Meeting, Los Angeles, CA, November, 1991

80. Ultrafiltration, Chapters 27-31. Membrane Handbook, Van Nostrand Reinhold, New York, NY, 1992.

81. Process Analysis of Membrane Separations, Departmental Seminar, University of Illinois, Urbana, IL, April, 1992

82. Surface Modification of Membranes, 10th Annual Membrane Technology Planning Conference, BCC Communications, Newton, MA, October, 1992

83. Membranes Tailored for Aqueous Phase Separations, AIChE National Meeting, Miami Beach, FL, November, 1992

84. Inorganic Separation Technology, Invited Lecture, Los Alamos National Laboratory, November, 1992

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